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DEC 16 2008

In re Application of :
Horiba, et al. : DECISION ON PETITION
Application No. 10/518,822 :
Filed: January 13, 2005 :
Atty. Dkt. No.: ADACHI P265US :

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed October 27, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby GRANTED.

The application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed March 18, 2008. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed October 23, 2008.


Petitioners assert that a response to the non-final Office was timely submitted via facsimile on June 17, 2008. Petitioners have provided as proof of submission and proof of receipt of the response, a copy of the response purportedly submitted. The copy of the response bears a certificate of transmission date of June 17, 2008, in accordance with 37 CFR 1.8. Further, petitioners have provided a copy of a USPTO Auto-Reply Facsimile Transmission acknowledging receipt of the response on June 17, 2008.

The original response submitted June 17, 2008 has not been located in the application file. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

This application is being forwarded to the Technology Center 3767 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.


Alesia M. Brown
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Office of Petitions